

CONFERENCE COMMITTEE REPORT DIGEST FOR ESB 312

Citations Affected: IC 3-5-2-22; IC 3-10; IC 3-11-2-12; IC 36-1-2; IC 36-2; IC 36-9-13-2.

Synopsis: Reorganization of county executive and legislative authority. Permits a county to reorganize its executive and legislative structure and powers so that all executive authority is exercised by a single elected county executive and all legislative and fiscal powers are exercised by the county council. Provides that the county council in a reorganized county consists of seven members, four elected from districts and three elected at large (except for Lake County and St. Joseph County whose councils would remain as constituted under current law). Provides that a reorganization may be adopted if: (1) the county executive adopts an ordinance (in Lake County or St. Joseph County, if an ordinance is adopted as required by law for either of those counties) to reorganize the county executive and legislative powers or a specified number of voters sign a petition for reorganization; and (2) the reorganization is approved by the voters of the county. Provides that a reorganization can be approved only in an even-numbered year. Provides that if the county's voters vote in favor of the public question, the first single member county executive would be elected at the second general election that is held after the general election at which the voters approve the reorganization. Provides for transition from a three member county executive to the single member county executive. Provides that if a county adopts a single county executive form of government, the county council rather than the county executive is responsible for redistricting the county council. (In Lake County, the county redistricting commission would continue to redistrict county council districts.) Provides that the only reason that county council districts may be changed after the first redistricting after a decennial census is to conform the districts to statutory requirements. Makes technical and other changes to conform the law to the substantive changes. **(This conference committee report deletes provisions relating to hearings on estimated budgets and tax levies and the mailing of property tax information to taxpayers. This conference committee also does the following: (1) adds the provision enabling the voters to initiate the reorganization of a county's executive and legislative structures and powers; (2) provides that in a reorganized county, the county council may establish new county departments, divisions, or agencies only at the request of the county executive; and (3) makes the provision for initiating a reorganization effective upon passage.)**

Effective: Upon passage; July 1, 2008.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill No. 312 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 3-5-2-22 IS AMENDED TO READ AS FOLLOWS
- 3 [EFFECTIVE JULY 1, 2008]: Sec. 22. **(a)** "Executive" means **the**
- 4 **following:**
- 5 (1) **Except as provided in subsection (b), the** board of county
- 6 commissioners, for a county not having a consolidated city.
- 7 (2) **The** mayor of the consolidated city, for a county having a
- 8 consolidated city.
- 9 (3) **The** mayor, for a city.
- 10 (4) **The** president of the town council, for a town. **or**
- 11 (5) **A** trustee, for a township.
- 12 **(b) In the case of a county subject to IC 36-2-2.5, "executive"**
- 13 **means the county executive elected under IC 3-10-2-13.**
- 14 SECTION 2. IC 3-10-1-19, AS AMENDED BY P.L.164-2006,
- 15 SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 16 JULY 1, 2008]: Sec. 19. (a) The ballot for a primary election shall be
- 17 printed in substantially the following form for all the offices for which
- 18 candidates have qualified under IC 3-8:
- 19 OFFICIAL PRIMARY BALLOT
- 20 _____ Party
- 21 For paper ballots, print: To vote for a person, make a voting mark
- 22 (X or ✓) on or in the box before the person's name in the proper

column. For optical scan ballots, print: To vote for a person, darken or shade in the circle, oval, or square (or draw a line to connect the arrow) that precedes the person's name in the proper column. For optical scan ballots that do not contain a candidate's name, print: To vote for a person, darken or shade in the oval that precedes the number assigned to the person's name in the proper column. For electronic voting systems, print: To vote for a person, touch the screen (or press the button) in the location indicated.

Vote for one (1) only

Representative in Congress

☐ (1) AB _____

☐ (2) CD _____

☐ (3) EF _____

☐ (4) GH _____

(b) The offices with candidates for nomination shall be placed on the primary election ballot in the following order:

(1) Federal and state offices:

(A) President of the United States.

(B) United States Senator.

(C) Governor.

(D) United States Representative.

(2) Legislative offices:

(A) State senator.

(B) State representative.

(3) Circuit offices and county judicial offices:

(A) Judge of the circuit court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the circuit court.

(B) Judge of the superior court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the superior court.

(C) Judge of the probate court.

(D) Judge of the county court, with each division separate, as required by IC 33-30-3-3.

(E) Prosecuting attorney.

(F) Circuit court clerk.

(4) County offices:

(A) County auditor.

(B) County recorder.

(C) County treasurer.

(D) County sheriff.

(E) County coroner.

(F) County surveyor.

(G) County assessor.

(H) County commissioner.

(I) County executive, in the case of a county subject to IC 36-2-2.5.

(J) County council member.

(5) Township offices:

(A) Township assessor.

(B) Township trustee.

- 1 (C) Township board member.
- 2 (D) Judge of the small claims court.
- 3 (E) Constable of the small claims court.
- 4 (6) City offices:
- 5 (A) Mayor.
- 6 (B) Clerk or clerk-treasurer.
- 7 (C) Judge of the city court.
- 8 (D) City-county council member or common council member.
- 9 (7) Town offices:
- 10 (A) Clerk-treasurer.
- 11 (B) Judge of the town court.
- 12 (C) Town council member.
- 13 (c) The political party offices with candidates for election shall be
- 14 placed on the primary election ballot in the following order after the
- 15 offices described in subsection (b):
- 16 (1) Precinct committeeman.
- 17 (2) State convention delegate.
- 18 (d) The following offices and public questions shall be placed on the
- 19 primary election ballot in the following order after the offices described
- 20 in subsection (c):
- 21 (1) School board offices to be elected at the primary election.
- 22 (2) Other local offices to be elected at the primary election.
- 23 (3) Local public questions.
- 24 (e) The offices and public questions described in subsection (d)
- 25 shall be placed:
- 26 (1) in a separate column on the ballot if voting is by paper ballot;
- 27 (2) after the offices described in subsection (c) in the form
- 28 specified in IC 3-11-13-11 if voting is by ballot card; or
- 29 (3) either:
- 30 (A) on a separate screen for each office or public question; or
- 31 (B) after the offices described in subsection (c) in the form
- 32 specified in IC 3-11-14-3.5;
- 33 if voting is by an electronic voting system.
- 34 (f) A public question shall be placed on the primary election ballot
- 35 in the following form:
- 36 (The explanatory text for the public question,
- 37 if required by law.)
- 38 "Shall (insert public question)?"
- 39 ☐ YES
- 40 ☐ NO
- 41 SECTION 3. IC 3-10-2-13 IS AMENDED TO READ AS
- 42 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. The following
- 43 public officials shall be elected at the general election before their
- 44 terms of office expire and every four (4) years thereafter:
- 45 (1) Clerk of the circuit court.
- 46 (2) County auditor.
- 47 (3) County recorder.
- 48 (4) County treasurer.
- 49 (5) County sheriff.
- 50 (6) County coroner.
- 51 (7) County surveyor.

- 1 (8) County assessor.
- 2 (9) County commissioner.
- 3 **(10) County executive, in the case of a county subject to**
- 4 **IC 36-2-2.5.**
- 5 ~~(10)~~ **(11)** County council member.
- 6 ~~(11)~~ **(12)** Township trustee.
- 7 ~~(12)~~ **(13)** Township board member.
- 8 ~~(13)~~ **(14)** Township assessor.
- 9 ~~(14)~~ **(15)** Judge of a small claims court.
- 10 ~~(15)~~ **(16)** Constable of a small claims court.
- 11 SECTION 4. IC 3-11-2-12, AS AMENDED BY P.L.2-2005,
- 12 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 13 JULY 1, 2008]: Sec. 12. The following offices shall be placed on the
- 14 general election ballot in the following order:
- 15 (1) Federal and state offices:
- 16 (A) President and Vice President of the United States.
- 17 (B) United States Senator.
- 18 (C) Governor and lieutenant governor.
- 19 (D) Secretary of state.
- 20 (E) Auditor of state.
- 21 (F) Treasurer of state.
- 22 (G) Attorney general.
- 23 (H) Superintendent of public instruction.
- 24 (I) United States Representative.
- 25 (2) Legislative offices:
- 26 (A) State senator.
- 27 (B) State representative.
- 28 (3) Circuit offices and county judicial offices:
- 29 (A) Judge of the circuit court, and unless otherwise specified
- 30 under IC 33, with each division separate if there is more than
- 31 one (1) judge of the circuit court.
- 32 (B) Judge of the superior court, and unless otherwise specified
- 33 under IC 33, with each division separate if there is more than
- 34 one (1) judge of the superior court.
- 35 (C) Judge of the probate court.
- 36 (D) Judge of the county court, with each division separate, as
- 37 required by IC 33-30-3-3.
- 38 (E) Prosecuting attorney.
- 39 (F) Clerk of the circuit court.
- 40 (4) County offices:
- 41 (A) County auditor.
- 42 (B) County recorder.
- 43 (C) County treasurer.
- 44 (D) County sheriff.
- 45 (E) County coroner.
- 46 (F) County surveyor.
- 47 (G) County assessor.
- 48 (H) County commissioner.
- 49 **(I) County executive, in the case of a county subject to**
- 50 **IC 36-2-2.5.**
- 51 ~~(I)~~ **(J)** County council member.

(5) Township offices:

- (A) Township assessor.
- (B) Township trustee.
- (C) Township board member.
- (D) Judge of the small claims court.
- (E) Constable of the small claims court.

(6) City offices:

- (A) Mayor.
- (B) Clerk or clerk-treasurer.
- (C) Judge of the city court.
- (D) City-county council member or common council member.

(7) Town offices:

- (A) Clerk-treasurer.
- (B) Judge of the town court.
- (C) Town council member.

SECTION 5. IC 36-1-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. **(a) "Executive" means the following:**

- (1) **Except as provided in subsection (b), the** board of commissioners, for a county not having a consolidated city.
- (2) **The** mayor of the consolidated city, for a county having a consolidated city.
- (3) **The** mayor, for a city.
- (4) **The** president of the town council, for a town.
- (5) **A** trustee, for a township.
- (6) **The** superintendent, for a school corporation. ~~or~~
- (7) **The** chief executive officer, for any other political subdivision.

(b) "Executive", in the case of a county subject to IC 36-2-2.5, means the county executive elected under IC 3-10-2-13 for a county not having a consolidated city.

SECTION 6. IC 36-1-2-9, AS AMENDED BY P.L.186-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. "Legislative body" means the **following:**

- (1) **The** board of county commissioners, for a county not subject to IC 36-2-3.5 or IC 36-3-1.
- (2) **The** county council, for a county subject to IC 36-2-3.5 **or IC 36-2-3.7.**
- (3) **The** city-county council, for a consolidated city or county having a consolidated city.
- (4) **The** common council, for a city other than a consolidated city.
- (5) **The** town council, for a town.
- (6) **The** township board, for a township.
- (7) **The** governing body of any other political subdivision that has a governing body. ~~or~~
- (8) **The** chief executive officer of any other political subdivision that does not have a governing body.

SECTION 7. IC 36-2-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) If the resident voters in a specified territory in two (2) or more contiguous counties desire to change the boundaries of their respective counties, they may file a

petition with the executives of their respective counties requesting that the territory be transferred. The petition must:

(1) be signed by at least the number of voters resident in the territory requested to be transferred required to place a candidate on the ballot under IC 3-8-6-3;

(2) contain a clear, distinct description of the requested boundary change; and

(3) not propose to decrease the area of any county below four hundred (400) square miles in compliance with Article 15, Section 7 of the Constitution of the State of Indiana.

(b) Whenever a petition under subsection (a) is filed with a county executive, the executive shall determine, at its first meeting after the petition is filed:

(1) whether the signatures on the petition are genuine; and

(2) whether the petition complies with subsection (a).

(c) If the determinations under subsection (b) are affirmative, the executive shall certify the question to the county election board of each affected county. The county election boards shall jointly order a special election to be held, scheduling the election so that the election is held on the same date in each county interested in the change, but not later than thirty (30) days and not on the same date as a general election. The election shall be conducted under IC 3-10-8-6. All voters of each interested county are entitled to vote on the question. The question shall be placed on the ballot in the form prescribed by IC 3-10-9-4 and must state "Shall the boundaries of _____ County and _____ County change?".

(d) After an election under subsection (c), the clerk of each county shall make a certified copy of the election returns and not later than five (5) days after the election file the copy with the auditor of the county. The auditor shall, not later than five (5) days after the filing of the returns in the auditor's office, make a true and complete copy of the returns, certified under the auditor's hand and seal, and deposit the copy with the auditor of every other county interested in the change.

(e) After copies have been filed under subsection (d), the auditor of each county shall call a meeting of the executive of the county, which shall examine the returns. If a majority of the voters of each interested county voted in favor of change, the executive shall:

(1) enter an order declaring their boundaries to be changed as described in the petition; and

(2) if the county has received territory from the transfer, adopt revised descriptions of:

(A) county commissioner districts under IC 36-2-2-4; and

(B) county council districts under IC 36-2-3-4;

so that the transferred territory is assigned to at least one (1) county commissioner district and at least one (1) county council district. **If IC 36-2-3.7 is applicable to a county, county council districts shall be established as provided in IC 36-2-3-4.6.**

(f) The executive of each county shall file a copy of the order described in subsection (e)(1) with:

(1) the office of the secretary of state; and

(2) the circuit court clerk of the county.

Except as provided in subsection (g), the transfer of territory becomes effective when the last county order is filed under this subsection.

(g) An order declaring county boundaries to be changed may not take effect during the year preceding a year in which a federal decennial census is conducted. An order that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 2 of the year in which a federal decennial census is conducted.

(h) An election under this section may be held only once every three (3) years.

SECTION 8. IC 36-2-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. This chapter applies to all counties ~~not except the following~~:

(1) A county having a consolidated city.

(2) A county subject to IC 36-2-2.5.

SECTION 9. IC 36-2-2.4 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 2.4. Reorganization of County Executive and Legislative Structure and Powers

Sec. 1. This chapter does not apply to a county having a consolidated city.

Sec. 2. (a) This section does not apply to a county subject to IC 36-2-3.5.

(b) Subject to subsection (c), the county executive may adopt an ordinance under IC 36-2-4 to reorganize the executive and legislative structure and functions of the county as provided in this chapter.

(c) An ordinance adopted under this section must be adopted before July 1 of an even-numbered year.

(d) The county auditor shall certify the adoption of the ordinance to the county election board as provided in IC 3-10-9.

Sec. 3. (a) This section applies to a county subject to IC 36-2-3.5.

(b) Subject to subsection (c), an ordinance may be adopted under IC 36-2-4 to reorganize the executive and legislative structure and functions of the county as provided in this chapter.

(c) An ordinance adopted under this section must be adopted before July 1 of an even-numbered year.

(d) The county auditor shall certify the adoption of the ordinance to the county election board as provided in IC 3-10-9.

Sec. 4. (a) Subject to subsection (b), if a petition:

(1) requests that a public question be placed on the ballot for the reorganization of the executive and legislative structure and functions of the county as provided in this chapter;

(2) is signed by the number of registered voters of the county described in subsection (c); and

(3) is filed with the circuit court clerk;

the circuit court clerk shall certify the filing of the petition with the county election board as provided in IC 3-10-9.

(b) A petition described in this section must be filed with the circuit court clerk not later than July 1 of an even-numbered year.

(c) The number of registered voters of the county who must sign a petition under this section may not be less than the greater of the following:

(1) Five percent (5%) of the number of votes cast for secretary of state in the county at the most recent election for secretary of state.

(2) Two hundred fifty (250).

Sec. 5. If:

(1) an ordinance is certified under section 2 or 3 of this chapter; or

(2) a petition is certified under section 4 of this chapter;

the county election board shall place the following public question on the ballot at the next general election held in the county:

"Shall the county government of _____ (insert the name of the county) County be reorganized to place all executive powers in a single elected county executive and to place all legislative and fiscal powers in the county council?".

Sec. 6. IC 36-2-2.5, except where inconsistent with this chapter, applies to a public question placed on the ballot under this chapter.

Sec. 7. If a majority of the voters who vote on the public question vote in favor of the public question, the following apply:

(1) IC 36-2-2.5 applies to the county instead of IC 36-2-2.

(2) The county executive consists of one (1) individual.

(3) The county may not subsequently be governed under IC 36-2-2.

(4) The county executive described in subdivision (2) shall:

(A) be elected at the second general election held after the year the public question is approved; and

(B) take office January 1 after the individual's election.

(5) The term of office of each member of the county executive elected under IC 36-2-2 is as follows:

(A) The term of a member elected at the general election held in the year the public question is approved:

(i) is four (4) years; and

(ii) expires at the end of the day on December 31 after the election described in subdivision (4).

(B) The term of a member elected at the first general election held after the year the public question is approved:

(i) is two (2) years; and

(ii) expires at the end of the day on December 31 after the election described in subdivision (4).

(6) IC 36-2-3.7 applies to the county.

SECTION 10. IC 36-2-2.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 2.5. Single Member County Executive

Sec. 1. (a) This chapter applies to a county if the voters of the county approve a public question under IC 36-2-2.4.

(b) This chapter does not apply to a county having a consolidated city.

1 **Sec. 2.** As used in this chapter, "county executive" means the
 2 county executive elected under IC 3-10-2-13 every four (4) years.

3 **Sec. 3. (a)** All powers and duties of the county that are executive
 4 or administrative in nature shall be exercised or performed by the
 5 county executive, except to the extent that these powers and duties
 6 are expressly assigned by law to another elected or appointed
 7 officer.

8 **(b)** Any reference:

9 **(1)** in the Indiana Code;

10 **(2)** in the Indiana Administrative Code; or

11 **(3)** in an ordinance or resolution;

12 to the board of commissioners as it pertains to a county governed
 13 by this chapter shall be considered a reference to the county
 14 executive of the county. Any reference in the Indiana Code related
 15 to the executive powers and duties of the board of county
 16 commissioners shall, for purposes of a county subject to this
 17 chapter, be considered a reference to the county executive of the
 18 county.

19 **(c)** The county council has the legislative powers and duties of
 20 the county as provided in IC 36-2-3.7.

21 **Sec. 4.** The county executive shall do the following:

22 **(1)** Report on the condition of the county before March 1 of
 23 each year to the county council and to the residents of the
 24 county.

25 **(2)** Recommend before March 1 of each year to the county
 26 council any action or program the county executive considers
 27 necessary for the improvement of the county and the welfare
 28 of county residents.

29 **(3)** Submit to the county council an annual budget in
 30 accordance with IC 36-2-5.

31 **(4)** Establish the procedures to be followed by all county
 32 departments, offices, and agencies under the county
 33 executive's jurisdiction, to the extent these procedures are not
 34 expressly assigned by law to another elected or appointed
 35 officer.

36 **(5)** Administer all statutes, ordinances, and regulations
 37 applicable to the county, to the extent the administration of
 38 these matters is not expressly assigned by law to another
 39 elected or appointed officer.

40 **(6)** Supervise the care and custody of all county property.

41 **(7)** Supervise the collection of revenues and control all
 42 disbursements and expenditures, and prepare a complete
 43 account of all expenditures, to the extent these matters are not
 44 expressly assigned by law to another elected or appointed
 45 officer.

46 **(8)** Review, analyze, and forecast trends for county services
 47 and finances and programs of all county governmental
 48 entities, and report and make recommendations on these
 49 matters to the county council by March 15 of each year.

50 **(9)** Negotiate contracts for the county.

51 **(10)** Make recommendations concerning the nature and

location of county improvements, and provide for the execution of those improvements.

(11) Supervise county administrative offices, except for the offices of elected officers.

(12) Approve or veto ordinances passed by the county council in the manner prescribed by section 6 of this chapter.

(13) Perform other duties and functions that are assigned to the county executive by statute or ordinance.

Sec. 5. The county executive may do any of the following:

(1) Order any department, office, or agency under the county executive's jurisdiction to undertake any task for another department, office, or agency under the county executive's jurisdiction on a temporary basis, if necessary for the proper and efficient administration of county government.

(2) Establish and administer centralized budgeting, centralized personnel selection, and centralized purchasing.

Sec. 6. The county executive shall approve or veto ordinances passed by the county council in the manner prescribed by IC 36-2-4-8.

Sec. 7. Notwithstanding any other law, if a statute requires a county executive to take an executive action by ordinance or resolution, the county executive shall instead take the action by issuing an executive order.

SECTION 11. IC 36-2-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The ~~seven (7)~~ ~~member~~ county council elected under this chapter is:

(1) the county fiscal body; and

(2) if IC 36-2-3.7 applies to the county, the county legislative body.

(b) The ~~fiscal body~~ **county council** shall act in the name of "The _____ County Council".

(b) Notwithstanding subsection (a), in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), the county council has nine (9) members:

SECTION 12. IC 36-2-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) The ~~fiscal body~~ **county council** shall be elected under IC 3-10-2-13. Except in a county having only single member districts, members elected from districts and at large members, respectively, ~~are to~~ **shall** be elected in alternate, succeeding general elections under ~~section 4~~ of this chapter. In a county having only single member districts, the terms of the members are staggered as was provided by law before September 1, 1980.

(b) The term of office of a member of the ~~fiscal body~~ **county council** is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified.

SECTION 13. IC 36-2-3-4, AS AMENDED BY P.L.230-2005, SECTION 83, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) **This section does not apply to a county if IC 36-3-3.7 applies to the county.**

(b) This subsection does not apply to a county having a population of:

- (1) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or
 (2) more than two hundred thousand (200,000) but less than three hundred thousand (300,000).

The county executive shall, by ordinance, divide the county into four (4) contiguous, single-member districts that comply with subsection ~~(d)~~: **(e)**. If necessary, the county auditor shall call a special meeting of the executive to establish or revise districts. One (1) member of the ~~fiscal body~~ **county council** shall be elected by the voters of each of the four (4) districts. Three (3) at-large members of the ~~fiscal body~~ **county council** shall be elected by the voters of the whole county.

~~(b)~~ **(c)** This subsection applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). The county redistricting commission established under IC 36-2-2-4 shall divide the county into seven (7) single-member districts that comply with subsection ~~(d)~~: **(e)**. One (1) member of the ~~fiscal body~~ **county council** shall be elected by the voters of each of these seven (7) single-member districts.

~~(c)~~ **(d)** This subsection applies to a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). The ~~fiscal body~~ **county council** shall divide the county into nine (9) single-member districts that comply with subsection ~~(d)~~: **(e)**. Three (3) of these districts must be contained within each of the three (3) districts established under IC 36-2-2-4(c). One (1) member of the ~~fiscal body~~ **county council** shall be elected by the voters of each of these nine (9) single-member districts.

~~(d)~~ **(e)** Single-member districts established under subsection ~~(a)~~: (b), (c), or ~~(c)~~ **(d)** must:

- (1) be compact, subject only to natural boundary lines (such as railroads, major highways, rivers, creeks, parks, and major industrial complexes);
- (2) not cross precinct boundary lines;
- (3) contain, as nearly as possible, equal population; and
- (4) include whole townships, except when a division is clearly necessary to accomplish redistricting under this section.

~~(e)~~ **(f)** A division under subsection ~~(a)~~: (b), (c), or ~~(c)~~ **(d)** shall be made:

- (1) during the first year after a year in which a federal decennial census is conducted; and
- (2) when the county executive adopts an order declaring a county boundary to be changed under IC 36-2-1-2.

~~(f)~~ **(g)** A division under subsection ~~(a)~~: (b), (c), or ~~(c)~~ **(d)** may be made in ~~any odd-numbered year at a time~~ not described in subsection ~~(e)~~: **(f) only to make districts comply with subsection (e)**.

SECTION 14. IC 36-2-3-4.6 IS ADDED TO THE INDIANA CODE AS NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 4.6. (a) If IC 36-2-3.7 applies to the county:**

- (1) this section applies to the county; and**
- (2) section 4 of this chapter does not apply to the county.**

(b) Except as provided in subsections (c) and (d), the county

council shall divide the county into four (4) single-member districts that comply with subsection (e). If necessary, the county auditor shall call a special meeting of the county council to establish or revise districts. One (1) member of the county council shall be elected by the voters of each of the four (4) districts. Three (3) at-large members of the county council shall be elected by all the voters of the county.

(c) This subsection applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). The county redistricting commission established under IC 36-2-2-4 shall divide the county into seven (7) single-member districts that comply with subsection (e). One (1) member of the county council shall be elected by the voters of each of these seven (7) single-member districts.

(d) This subsection applies to a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). The county council shall divide the county into nine (9) single-member districts that comply with subsection (e). One (1) member of the county council shall be elected by the voters of each of these nine (9) single-member districts.

(e) Single-member districts established under this section must:

- (1) be compact, subject only to natural boundary lines (such as railroads, major highways, rivers, creeks, parks, and major industrial complexes);
- (2) not cross precinct boundary lines;
- (3) contain, as nearly as possible, equal population; and
- (4) include whole townships, except when a division is clearly necessary to accomplish redistricting under this section.

(f) A division under this section shall be made:

- (1) during the first year after a year in which a federal decennial census is conducted; and
- (2) when the county executive adopts an order declaring a county boundary to be changed under IC 36-2-1-2.

(g) A division under this section may be made at a time not described in subsection (f) only to make districts comply with subsection (e).

SECTION 15. IC 36-2-3-4.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4.7. (a) Whenever the county executive or the county ~~fiscal body~~ **council** divides the county into districts under ~~section 4~~ of this chapter, the county executive or the county ~~fiscal body~~ **council** shall adopt an ordinance.

(b) The county executive or the county ~~fiscal body~~ **council** shall file a copy of an ordinance adopted under subsection (a) with the circuit court clerk.

SECTION 16. IC 36-2-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) To be eligible to serve as a member of the ~~fiscal body~~, **county council**, a person must meet the qualifications prescribed by IC 3-8-1-22.

(b) A member of the ~~fiscal body~~ **county council** must reside within:

- (1) the county as provided in Article 6, Section 6 of the

1 Constitution of the State of Indiana; and

2 (2) the district from which the member was elected, if applicable.

3 (c) A member who fails to comply with subsection (b) forfeits the
4 office.

5 SECTION 17. IC 36-2-3-6 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) At its regular
7 meeting required by section 7(b)(1) of this chapter, the ~~fiscal body~~
8 **county council** shall elect a president and president pro tempore from
9 its members.

10 (b) The county auditor is the clerk of the ~~fiscal body~~ **county council**
11 and shall:

12 (1) preserve the ~~fiscal body's~~ **county council's** records in ~~his the~~
13 **county auditor's** office;

14 (2) keep an accurate record of the ~~fiscal body's~~ **county council's**
15 proceedings;

16 (3) record the ayes and nays on each vote appropriating money or
17 fixing the rate of a tax levy; and

18 (4) record the ayes and nays on other votes when requested to do
19 so by two (2) or more members.

20 (c) The county sheriff or a county police officer shall attend the
21 meetings of the ~~fiscal body; county council~~, if requested by the ~~fiscal~~
22 ~~body; county council~~, and shall execute its orders.

23 (d) The ~~fiscal body~~ **county council** may employ legal and
24 administrative personnel necessary to assist and advise it in the
25 performance of its functions and duties.

26 SECTION 18. IC 36-2-3-7 IS AMENDED TO READ AS
27 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) The ~~fiscal body~~
28 **county council** shall hold its meetings in the county seat, in the county
29 auditor's office, or in another location provided by the county executive
30 and approved by the ~~fiscal body; county council~~.

31 (b) The ~~fiscal body; county council~~:

32 (1) shall hold a regular meeting in January after its election, for
33 the purpose of organization and other business;

34 (2) shall hold a regular meeting annually, as prescribed by
35 IC 6-1.1-17, to adopt the county's annual budget and tax rate;

36 (3) may hold a special meeting under subsection (c) or (d); and

37 (4) in the case of a county subject to IC 36-2-3.5 shall hold
38 meetings at a regularly scheduled time each month that does not
39 conflict with the meetings of the county executive.

40 (c) A special meeting of the ~~fiscal body~~ **county council** may be
41 called:

42 (1) by the county auditor or the president of the ~~fiscal body;~~
43 **county council**; or

44 (2) by a majority of the members of the ~~fiscal body; county~~
45 **council**.

46 At least forty-eight (48) hours before the meeting, the auditor,
47 president, or members calling the meeting shall give written notice of
48 the meeting to each member of the ~~fiscal body~~ **county council** and
49 publish, at least one (1) day before the meeting, the notice in
50 accordance with IC 5-3-1-4. This subsection does not apply to a

meeting called to deal with an emergency under IC 5-14-1.5-5.

(d) If a court orders the county auditor to make an expenditure of county money for a purpose for which an appropriation has not been made, the auditor shall immediately call an emergency meeting of the ~~fiscal body~~ **county council** to discuss the matter. Notwithstanding subsection (c), the meeting must be held within three (3) working days of the receipt of the order by the auditor, and notice of the meeting day, time, and ~~places~~ **place** is sufficient if:

(1) given by telephone to the members of the ~~fiscal body~~; **county council**; and

(2) given according to IC 5-14-1.5.

SECTION 19. IC 36-2-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. A member of the ~~fiscal body~~ **county council** who purchases a bond, order, claim, or demand against the county for less than its face value shall forfeit it to the county and may not enforce it by legal action.

SECTION 20. IC 36-2-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. The ~~fiscal body~~ **county council** may:

(1) expel any member for violation of an official duty;

(2) declare the seat of any member vacant if ~~he~~ **the member** is unable or fails to perform the duties of ~~his~~ **the** office; and

(3) adopt its own rules to govern proceedings under this section, but a two-thirds (2/3) vote is required to expel a member or vacate ~~his~~ **the member's** seat.

SECTION 21. IC 36-2-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) The ~~fiscal body~~ **county council** may employ and fix the compensation of an attorney to represent and advise the ~~fiscal body~~; **county council**.

(b) For the purposes of Section 9, Article 2 of the Constitution of the State of Indiana, employment by a county ~~fiscal body~~ **county council** as an attorney does not constitute a lucrative office.

SECTION 22. IC 36-2-3.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. **(a) Except as provided in subsection (b),** this chapter applies to:

(1) a county having a population of:

(A) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(B) more than two hundred thousand (200,000) but less than three hundred thousand (300,000); and

(2) any other county not having a consolidated city, if both the county executive and the county fiscal body adopt identical ordinances providing for the county to be governed by this chapter beginning on a specified effective date.

(b) This chapter does not apply to a county subject to IC 36-2-3.7.

SECTION 23. IC 36-2-3.7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 3.7. County Council as the County Legislative Body

1 **Sec. 1. (a) This chapter applies to a county if the voters of the**
 2 **county approve a public question under IC 36-2-2.4.**

3 **(b) This chapter does not apply to a county having a**
 4 **consolidated city.**

5 **Sec. 2. As used in this chapter, "county executive" means the**
 6 **county executive of a county elected under IC 3-10-2-13 in a county**
 7 **subject to IC 36-2-2.5.**

8 **Sec. 3. The executive and legislative powers of a county are**
 9 **divided between separate branches of county government. A power**
 10 **belonging to one (1) branch of county government may not be**
 11 **exercised by the other branch of county government.**

12 **Sec. 4. (a) The county council elected under IC 36-2-3 is the**
 13 **county legislative body as well as the county fiscal body.**

14 **(b) The county executive is the executive of the county. The**
 15 **county executive has the executive and administrative powers and**
 16 **duties of the county as provided in IC 36-2-2.5.**

17 **Sec. 5. (a) All powers and duties of the county that are legislative**
 18 **in nature shall be exercised or performed by the county council**
 19 **functioning as the county legislative body.**

20 **(b) The county council has the same legislative powers and**
 21 **duties that the county board of commissioners in the county had**
 22 **before the county board of commissioners was abolished.**

23 **Sec. 6. The county council may do any of the following:**

24 **(1) Establish committees that are necessary to carry out the**
 25 **county council's functions.**

26 **(2) Employ legal and administrative personnel necessary to**
 27 **carry out the county council's functions.**

28 **(3) Pass all ordinances, orders, resolutions, and motions for**
 29 **the government of the county, in the manner prescribed by**
 30 **IC 36-2-4.**

31 **(4) Receive gifts, bequests, and grants from public or private**
 32 **sources.**

33 **(5) Conduct investigations into the conduct of county business**
 34 **for the purpose of correcting deficiencies and ensuring**
 35 **adherence to law and county ordinances and policies.**

36 **(6) At the request of the county executive, establish, by**
 37 **ordinance, new county departments, divisions, or agencies**
 38 **whenever necessary to promote efficient county government.**

39 **SECTION 24. IC 36-2-4-8 IS AMENDED TO READ AS**
 40 **FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) An ordinance,**
 41 **order, or resolution is considered adopted when it is signed by the**
 42 **presiding officer. If required, an adopted ordinance, order, or resolution**
 43 **must be promulgated or published according to statute before it takes**
 44 **effect.**

45 **(b) An ordinance prescribing a penalty or forfeiture for a violation**
 46 **must, before it takes effect, be published once each week for two (2)**
 47 **consecutive weeks, according to IC 5-3-1. However, if such an**
 48 **ordinance is adopted by the legislative body of a county subject to**
 49 **IC 36-2-3.5 or IC 36-2-3.7 and there is an urgent necessity requiring**
 50 **its immediate effectiveness, it need not be published if:**

51 **(1) the county executive proclaims the urgent necessity; and**

(2) copies of the ordinance are posted in three (3) public places in each of the districts of the county before it takes effect.

(c) In addition to the other requirements of this section, an ordinance or resolution passed by the legislative body of a county subject to IC 36-2-3.5 **or IC 36-2-3.7** is considered adopted only if it is:

- (1) approved by signature of a majority of the county executive;
- (2) neither approved nor vetoed by a majority of the executive, within ten (10) days after passage by the legislative body; or
- (3) passed over the veto of the executive by a two-thirds (2/3) vote of the legislative body, within sixty (60) days after presentation of the ordinance or resolution to the executive.

(d) After an ordinance or resolution passed by the legislative body of a county subject to IC 36-2-3.5 **or IC 36-2-3.7** has been signed by the presiding officer, the county auditor shall present it to the county executive, and record the time of the presentation. Within ten (10) days after an ordinance or resolution is presented to it, the executive shall:

- (1) approve the ordinance or resolution, by signature of a majority of the executive, and send the legislative body a message announcing its approval; or
- (2) veto the ordinance or resolution, by returning it to the legislative body with a message announcing its veto and stating its reasons for the veto.

(e) This section does not apply to a zoning ordinance or amendment to a zoning ordinance, or a resolution approving a comprehensive plan, that is adopted under IC 36-7.

(f) An ordinance increasing a building permit fee on new development must:

- (1) be published:
 - (A) one (1) time in accordance with IC 5-3-1; and
 - (B) not later than thirty (30) days after the ordinance is adopted by the legislative body in accordance with IC 5-3-1; and
- (2) delay the implementation of the fee increase for ninety (90) days after the date the ordinance is published under subdivision (1).

SECTION 25. IC 36-9-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. For purposes of this chapter, the following are considered the governing bodies of their respective eligible entities:

- (1) Board of commissioners, for a county not subject to IC 36-2-3.5 or IC 36-3-1.
- (2) County council, for a county subject to IC 36-2-3.5 **or IC 36-2-3.7**.
- (3) City-county council, for a consolidated city or county having a consolidated city.
- (4) Common council, for a city other than a consolidated city.
- (5) Town council, for a town.
- (6) Trustee and township board, for a civil or school township.
- (7) Board of school trustees, board of school commissioners, or school board, for a school corporation.

1 (8) Board of trustees, for a health and hospital corporation.

2 SECTION 26. [EFFECTIVE JULY 1, 2008] (a) **The legislative**
3 **services agency shall prepare legislation for introduction in the**
4 **2009 regular session of the general assembly to organize and**
5 **correct statutes affected by this act, if necessary.**

6 (b) **This SECTION expires December 31, 2009.**

7 SECTION 27. **An emergency is declared for this act.**

(Reference is to ESB 312 as reprinted February 27, 2008.)

Conference Committee Report
on
Engrossed Senate Bill 312

Signed by:

Senator Boots
Chairperson

Representative Moses

Senator Errington

Representative Borror

Senate Conferees

House Conferees